

August 28, 2006

The Common Council met as the Water Utility Board on the above date in the Meeting Room at City Hall Annex with Mayor Knowles presiding and members Askren, Tucker, Curtis, and Cooper attending. Councilman Rueger was not present. Others attending were Chief Beloit; Acting Fire Chief Reese; Supt. Gray; Comm. Epison; Attorney Funkhouser; Vicki Peerman; Attorney Higgins; Tom Hogan - Johnson Controls; Ed Adams; Paula Rudibaugh; Larry Williams; Sheila Zenker; James Cox; and arriving during the meeting, "Snooky" Bulla.

Mayor Knowles called the meeting to order by stating members were either mailed or hand carried copies of the minutes of their previous meeting and by asking if there were any corrections or additions. She added if not, she entertains a motion to waive their reading and to approve the minutes as presented.

Councilwoman Askren moved the reading of the minutes be waived and they be approved as presented. Seconded by Councilman Cooper.

Mayor Knowles stated all those in favor of the motion should signify in the affirmative; and following the vote, she reported the motion carried unanimously.

Mayor Knowles reminded everyone in the Audience that anyone wishing to address the Board should approach the podium and state their name and the nature of their business.

Mayor Knowles then requested action on the claims presented.

Councilwoman Askren moved the claims presented be allowed for payment. Seconded by Councilman Curtis.

Mayor Knowles stated all those in favor of the motion should signify in the affirmative; and following the vote, she reported the motion carried unanimously.

Mayor Knowles stated they will now hear the report of the Water Superintendent.

Supt. Gray stated he has no report.

Mayor Knowles asked if there were any questions ?

There were none.

Mayor Knowles stated they have the Financial Report for July and any questions could be directed to Clerk-Treasurer Wolfe.

Mayor Knowles asked if the Clerk-Treasurer had any Communications for the Board ?

Clerk-Treasurer Wolfe replied not at this time.

Mayor Knowles stated she has give the Board copies of a letter received from IDEM.

Mayor Knowles asked if there were any Legals for consideration ?

There were none.

Mayor Knowles asked if anyone in the Audience wished to address the Water Utility Board ?

There was no response.

Mayor Knowles stated under Old Business, she believes she has given the Board copies of a letter received from Clark Dietz confirming that they are able to give their data to Johnson Controls, which will enable Johnson Controls to move forward.

Attorney Higgins stated that two meetings ago, the Board approved a water agreement for the Bulkley project, and she has spoken to them by phone. She reminded the Board that water agreements are needed for those individuals outside the city limits wanting city water, and Bulkley was just annexed into the City. Therefore, she said, for the record, no water agreement is necessary.

Mayor Knowles questioned that the city has so many years to provide services to newly annexed areas, and wondered if the water agreement fell into that same category.

Attorney Higgins replied that if the ordinance to annex is in effect, that is the date they should go by. She added the water service is there, no agreement is necessary, though Bulkley did sign the waiver against remonstrance, they end up not needing that.

Mayor Knowles asked if there was any other Old Business ?

There was none.

Mayor Knowles asked if there was any New Business ?

Attorney Funkhouser stated he received a letter from IDEM dated August 23, 2006 and noticed that Attorney Higgins was not copied, she needs added to their contact list.

Mayor Knowles stated she was contacted by a person wishing to lease space on the city water tower for wireless internet. She added the Water Utility Board would actually earn a fee for allowing the lease and then they would designate where that money would go.

"Snook" Bulla arrived at the meeting.

Mayor Knowles added this service would provide wireless internet to the city.

Councilwoman Askren stated she seems to recall a few years back a firm wanting to place a cell phone antenna on the water tower, and at that time, the Utility Board decided not to go in that direction as it could possibly mess up the telemetry.

Mayor Knowles replied all cities and towns do this.

Councilman Tucker stated he did recall exactly what the situation was, but agreed the Board had been approached.

Mayor Knowles again stated this is commonly done and they are not talking cell phones this time, it is wireless internet. She added Loren Evans from the school district had worked with this same company. She added it is up to the Water Utility Board what they do, they can take it run if they so wish, they could make some money.

Councilman Cooper stated it would not hurt to look into it and discuss it further.

Councilman Tucker added it would mean more revenue.

Supt. Gray stated the telemetry would not be comprised, as they run off of two different frequency speeds. He suggested that if they do go forward, they put a clause in the contract that their equipment is not to interfere with the water tower telemetry.

Mayor Knowles stated she feels it is a good opportunity. She stated many people eat lunch at the riverfront, and with this available, they could also have access to wireless internet.

Attorney Higgins suggested they get something in writing from the provider, as well as something from the insurance carrier stating a "no interference clause", and then look for the best deal they could get.

Mayor Knowles asked who would do the legwork ?

Councilwoman Askren stated Councilman Cooper could.

Councilman Cooper stated that would be fine, he could do that.

Mayor Knowles stated if there were no further business, she entertains a motion to adjourn.

Councilman Curtis moved the meeting be adjourned. Seconded by Councilwoman Askren.

Mayor Knowles stated all those in favor of the motion should signify in the affirmative; and following the vote, she reported the motion carried unanimously and adjourned the meeting.

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Rosemary L. Knowles

Mayor

ATTEST:

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Cristi L. Wolfe

Clerk-Treasurer

August 28, 2006

The Common Council met immediately following the Water Utility Board on the above date in the Meeting Room at City Hall Annex with Mayor Knowles presiding and members Askren, Tucker, Curtis, and Cooper attending. Councilman Rueger was not present. Others attending were Chief Beloit; Acting Fire Chief Reese; Supt. Gray; Comm. Epison; Vicki Peerman; Attorney Funkhouser; Attorney Higgins; Tom Hogan - Johnson Controls; Ed Adams; Paula Rudibaugh; Larry Williams; Sheila Zenker; James Cox; and "Snooky" Bulla.

Mayor Knowles called the meeting to order by stating members were either mailed or hand carried copies of the minutes of their previous meeting and by asking if there were any corrections or additions. She added if not, she entertains a motion to waive their reading and to approve the minutes as presented.

Councilwoman Askren moved the reading of the minutes be waived and they be approved as presented. Seconded by Councilman Cooper.

Mayor Knowles stated all those in favor of the motion should signify in the affirmative; and following the vote, she reported the motion carried unanimously.

Mayor Knowles reminded the Audience that anyone wishing to address the Council should approach the podium and state their name and the nature of their business.

Mayor Knowles stated they will now hear the reports of the Standing Committees.

Street & Light Chairman Curtis stated he has no report.

Comm. Epison handed a letter to the Council and stated he would like to remind the public that Monday, September 4 is a Holiday and trash will then be picked up on Tuesday, September 5. He further stated he is starting to focus on the trash/debris ordinance. He added there are quite a few in violation and he has compiled a list over time. He also stated

this week he will be issuing notices of violation, and to help with the clean up, there will be dumpster at the Street Department for residents to dump their trash. He further stated the Street Department will also be offering free extra trash pick ups. He concluded his report by stating this clean up of the town takes considerable time and money, but he would like the Council to know the action he has taken so far.

Councilwoman Askren stated it sounds like a good plan, and hopes residents will clean up their own messes.

Mayor Knowles stated the city wants to work with folk to help them clean up their homes, etc., and they are making progress.

Comm. Epison agreed and added some residents have made more progress than others, but they are trying to get it done. He added the city wants to allow everyone reasonable time to get things cleaned up on their own.

Mayor Knowles asked if there were any questions ?

There were none.

Police & Dog Chairwoman Askren stated she has no report.

Chief Belloat stated he has no report.

Mayor Knowles asked if there were any questions ?

There were none.

Fire Chairman Tucker stated he has no report.

Acting Fire Chief Reese stated he has no report.

Mayor Knowles asked if there were any questions ?

There were none.

Sewer Chairman Rueger was not present.

Mayor Knowles asked if there were any questions ?

There were none.

Mayor Knowles stated they have the Financial Report before them and any questions could be directed to Clerk-Treasurer Wolfe.

Mayor Knowles stated under Communications, she has given the Council copies of a letter she received from Laser, Inc, asking that they be notified of any zoning changes.

Mayor Knowles stated the first item on the Legal portion of the Agenda is the 2<sup>nd</sup> reading of the proposed Ordinance Establishing the Downtown Planning Fund.

Councilwoman Askren moved the ordinance pass second reading. Seconded by Councilman Cooper.

Mayor Knowles requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Askren - yes; Tucker - yes; Rueger - absent;

Curtis - yes; Cooper - yes.

Mayor Knowles stated the motion carried.

Councilman Cooper moved the rules be suspended. Seconded by Councilwoman Askren.

Mayor Knowles requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Askren - yes; Tucker - yes; Rueger - absent;

Curtis - yes; Cooper - yes.

Mayor Knowles stated the motion carried.

Councilman Cooper moved the ordinance pass final reading. Seconded by Councilwoman Askren.

Mayor Knowles asked if there was any discussion ?

There was none.

Mayor Knowles requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Askren - yes; Tucker - yes; Rueger - absent;

Curtis - yes; Cooper - yes.

Mayor Knowles stated the motion carried unanimously.

Clerk-Treasurer Wolfe added it will be numbered 06-19.

Mayor Knowles stated the next item for consideration is the proposed Ordinance Fixing the Salaries and Wages for Appointed Officers and Employees of the City of Mount Vernon, IN, for the Year Ending December 31, 2007.

After the Council studied said ordinance for some time, Mayor Knowles asked if there were prepared to proceed.

Councilman Cooper moved the ordinance pass first reading. Seconded by Councilwoman Askren.

Mayor Knowles asked if there was any discussion ?

Attorney Higgins reminded the Council of the letter she had sent in reference to exempt positions. She stated that has been incorporated into this ordinance.

Councilman Tucker questioned the police and fire rank structure, as it appears only the chief is exempt from overtime.

Attorney Funkhouser replied Chief Beloit restructured the police department.

Chief Beloit agreed by stating there is a chief, captain, lieutenant, two sergeants, and an investigator. He added he has discussed all the job duties with Attorney Funkhouser, and based on that discussion, the other positions did not qualify as exempt.

Attorney Funkhouser replied there are three cases where an employee can be exempt: if their duties are executive, professional, or administrative. He added they had discussed quite a bit more about this at length, but it has been awhile.

Chief Beloit stated the other ranks are not policy making positions, they are more field work.

Councilman Tucker replied that previously the second in command usually filled in for the chief.

Chief Beloit agreed and added that was also discussed with Attorney Funkhouser.

Attorney Funkhouser replied he has not done a full analysis of all of those positions.

Attorney Higgins added the city's workman's compensation carrier did job descriptions and analysis of them, though that was some years ago. She added unfortunately due to lawsuits, they need to be sure the descriptions are accurate and up to date. She also stated some years ago, worker's comp came to the city of Mt. Vernon and conducted an audit, but like

Attorney Funkhouser stated, things change. She added this ordinance can always be amended if need be, in the future, but the exempt positions do need to be noted in the ordinance.

Councilman Tucker agreed.

Councilman Cooper asked if the city has job descriptions on all jobs ?

Mayor Knowles replied yes, in draft form. She added the draft forms were given to department heads for review and to make any changes. She stated once this is done, the firm providing the service will get final accurate copies back to the city.

Councilman Cooper stated they look at this exempt listing again, after the final job descriptions have been received.

Mayor Knowles agreed and added they could be brought before the Board of Works for approval. She then suggested each employee read their job description and sign it.

Councilman Curtis asked if only the department heads have looked these over thus far ?

Mayor Knowles replied yes, and added her intention is to have the employees look them over as well, before they sign them.

Chief Beloit stated during his conversation with Attorney Funkhouser, he does recall that in reference to the captain position, they decided they would err in benefit of the employee and therefore, have that position still be eligible for overtime.

Councilman Tucker agreed that the city can stay out of trouble with the FLSA if they err on the side of the employee.

Mayor Knowles asked if they were ready for the roll call vote ? She then requested the roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Askren - yes; Tucker - yes; Rueger - absent;

Curtis - yes; Cooper - yes.

Mayor Knowles stated the motion carried unanimously.

Mayor Knowles stated the next item is the proposed Ordinance Establishing Appropriations and Tax Rates for the City of Mount Vernon for the Year Ending December 31, 2007. She then asked if there was any discussion ?



Councilman Cooper stated he did not believe they were preparing a budget for the Rainy Day Fund.

Mayor Knowles replied that was a judgment call on her part and she decided to do it. She added she had discussed it with Councilman Cooper and Councilman Tucker, about what they would want in the budget. She added it is within her authority to do this budget, though the Council can lower it.

Councilman Cooper asked if the Council can lower it to 0 ?

Attorney Higgins and Mayor Knowles both replied yes.

Attorney Higgins added that in that case, the money is approved as it is spent.

Mayor Knowles replied her reason for doing the budget was to plan ahead so they could spend it as needed, not to have to do an additional appropriation every time.

Councilman Curtis added he thought the Rainy Day Fund was for extraordinary and unusual expenditures that come up, things that are not expected.

Mayor Knowles added Councilman Tucker wanted money in there for attorney fees, and that is in there.

Councilman Cooper replied that he and the Mayor never discussed this further, after she showed him the budget.

Mayor Knowles stated that just because the budget would be approved does not mean it would have to be spent. She added this is commonly done , the Chief Executive says where money is spent, all the other budgets are done in this way.

Attorney Higgins stated she spoke with Indianapolis on this one and the state does allow a city to set up a fund such as this for extraordinary things.

Councilman Tucker agreed that was what he had thought, that the Rainy Day Fund was an emergency type fund. He added the CCDF money is tied up in fire truck payments, CCIF is as well, to purchase ground at the riverfront, and that is fine.

Mayor Knowles stated they just discussed they and if the Council wants to put it at 0, that is fine, the law allows it.

Councilman Cooper moved the ordinance pass first reading, with the amendment of reducing the Rainy Day Fund budget to 0. Seconded by Councilman Curtis.

Mayor Knowles asked if there was any discussion ?

There was none.

Mayor Knowles requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Askren - yes; Tucker - yes; Rueger - absent;

Curtis - yes; Cooper - yes.

Mayor Knowles stated the motion carried unanimously.

Mayor Knowles stated the final item on the Legal portion of the Agenda is discussion of an employee seat belt policy. She added this was actually brought up by the city's workman's compensation carrier.

Attorney Funkhouser stated he sees no reason why this should not be done, it basically restated state law.

Councilman Curtis asked if law enforcement is exempt from the seat belt rule in the state statute ?

Mayor Knowles replied yes.

Chief Beloit agreed but added the city department does require seat belt use in their SOPs.

Councilman Cooper asked if those in trucks are exempt from the seat belt law ?

Councilwoman Askren replied she believes so, though they need to wear them.

Attorney Higgins added the city ordinance can be more restrictive than the state law.

Mayor Knowles stated this is also needed to help keep the city workers safe.

Councilman Tucker added city ordinances, in reference to employee guidelines, are enforced by the department heads and assistant department heads. He wondered why each department couldn't just put something about seat belt use in their SOPs ?

Mayor Knowles replied because not every department has SOPs and SOGs, only the police and fire.

Attorney Higgins added that employee discipline is outlined in the violation of rules ordinance.

Mrs. Peerman stated this action will lower the city's workman's compensation rate.

Mayor Knowles agreed, this could save the city money, but if the Council decides not to do this, not to be proactive, that is fine.

Councilman Tucker stated the Board of Works would have to act on this.

Mayor Knowles replied she is very much aware of that.

Attorney Funkhouser asked if Councilman Tucker is questioning the penalty for violators?

Councilman Tucker replied yes, exactly.

Attorney Higgins added the street department, waste water department, water department, etc. currently have terminations, etc., based on violations of city policy. She added the employee could appeal to unemployment or the court system.

Councilman Cooper stated if this passes and an employee is involved in accident and they are found to not be wearing their seat belt, can the insurance company deny the claim ?

Attorney Higgins replied only if that is written in the insurance contract.

Councilman Cooper stated he does not want to open a can of worms, but he would like to see this go through. He then stated it can not be enforce though, unless department heads are with employees 100% of the time.

Mayor Knowles added this is simply a workman's compensation recommendation, this is all this is about, to help keep the employees as safe as possible. She added she is sure the workman's compensation folks are aware the city can not follow employees around all the time. She then stated they would like to see a progressive effort on the part of the city.

Councilman Curtis asked what the Council needs to do to comply ?

Attorney Funkhouser replied pass an ordinance on the seat belt use, to become part of that code section.

Chief Beloit added the truck seat belt use did not pass, only 16 years old and younger are required to wear a seat belt while in a truck.

Councilman Curtis asked if seat belt use could prohibit police and fire from responding adequately to emergencies ?

Acting Fire Chief Reese replied the only time it would be an issue for them is on the way to a fire scene or a wreck because the guys are putting on their turn out gear on the way to the scene.

Mayor Knowles replied she can see that.

Attorney Higgins added that exceptions can be made, as long as the city is agreeing with the state law.

Councilman Curtis feels the ordinance needs to be drafted and it is a reasonable request. He then moved Attorney Higgins draft an ordinance requiring seat belts be used in all city owned vehicles, and by those in personal vehicles on city business, with the exception of the fire department, as they put on turn out gear on the way to fire and accident scenes. Seconded by Councilman Cooper.

Mayor Knowles asked if there was any discussion ?

There was none.

Mayor Knowles stated all those in favor of the motion should signify in the affirmative; and following the vote, she reported the motion carried unanimously.

Mayor Knowles asked if anyone in the Audience wished to address the Council ?

There was no response.

Mayor Knowles asked if there was any Old Business ?

There was none.

Mayor Knowles asked if there was any New Business ?

There was none.

Mayor Knowles stated they will now hear the reports of the Districts.

1<sup>st</sup> District Councilwoman Askren stated she has no report.

2<sup>nd</sup> District Councilman Tucker stated he has no report.

3<sup>rd</sup> District Councilman Rueger was not present.

4<sup>th</sup> District Councilman Curtis stated he has no report.

Councilman-at-Large Cooper stated he has no report.

Mayor Knowles stated if there was no further business, she entertains a motion to adjourn.

Mrs. Peerman stated Ms. Zenker would like to address the Council.

Sheila Zenker approached the podium and stated there was lie told on her and she wanted to clear it up. She stated she has never contacted the Mayor's Office on the Cox residence.

She added she has called the Street Department 1,001 times about a hole in the street and that is the only thing she has called on.

Mrs. Peerman stated this is actually her fault, she made a mistake and has since apologized to Ms. Zenker. She added she gets so many complaints and Ms. Zenker's complaint was confused with another and she truly apologizes.

Ms. Zenker stated she has mowed the front of the Cox property and it is not even her property. She then stated Barbara Montgomery is the problem - she can't get what she wants out of the house she is trying to sell, but that is no reason to pick on Mr. Cox.

Mayor Knowles stated the Cox resident is really starting to look quite a bit better.

Ms. Zenker continued by stating Ms. Montgomery lived  $\frac{1}{2}$  block from her, SHE moved into their neighborhood. She also stated that when Ms. Montgomery's husband died, right there in the front yard, she was not left with the mess to clean up that James Cox was.

Mayor Knowles explained that she is aware that everyone goes through the grieving process differently, and at their own pace, and Mr. Cox was left with cleaning up the property of his deceased mother. She added there is a LOT to do and the Cox's have tried. She admitted the city has not been as diligent as they could have been in working with Mr. Cox, but she added when he was contacted he agreed he would get on it and he has cleaned it up substantially. He has also mowed and sprayed the weeds.

Mrs. Peerman stated she made two mistakes in all of this. She went on to say that she had never received any complaints on the property, but after Mrs. Cox passed away, the calls started coming in. She added she then received yet another phone call from a resident who felt no progress had been made.

Mayor Knowles stated major progress has been made, it is drastically better and frankly, the city can not expect much more. She then added right now, the city is in the middle. She also stated the city wants progress on the property as well as communication with everyone involved. She stated they would like to satisfy everyone and she herself has had a 45 minute conversation with the complainant and things then just went from bad to worse.

Ms. Zenker stated Council must consider the fact that she has talked with all of the neighbors and everyone is behind Mr. Cox, they know who is calling the Mayor's Office.

Mayor Knowles added that Mrs. Peerman even had a sit down meeting with the complainants that lasted over two hours.

Mrs. Zenker also added that the complainant is talking behind the Mayor's back. She then asked Comm. Epison if there was indeed an alley separating the two pieces of property?

Mayor Knowles stated the complainant wants the city to take the house off and have it demolished.

Comm. Epison replied yes, that is an alley.

Ms. Zenker stated this all boils down to money and the complainant can not pick on all of these folks.

Comm. Epison agreed that Mr. Cox has made a lot of progress, he has worked for six months with him on this.

Mrs. Peerman added she has never had to call Mr. Cox, he always has a plan on how to do things and how to pay for it.

Ms. Zenker asked the Council to please stop the complainant from harassing them.

Attorney Funkhouser replied the city actually has no authority to get involved in this situation.

Mrs. Peerman agreed that during the two hour meeting with the complainant, she did have some valid points, but it appears that she (Mrs. Peerman) dropped the ball. She added some of the issues the group brought up, the city can not enforce and many of the others the city is currently working on.

Mayor Knowles added they have tried to work on both sides.

Ms. Zenker stated it appears the neighbors will have to get an attorney themselves.

Councilman Tucker stated that the only people that don't make mistakes are those that are not doing anything, everyone makes a mistake. But, he stated, lies are being spread, etc., and he wondered if the city gave out names on those that call in with complaints ?

Mayor Knowles replied no.

Mrs. Peerman again stated honestly a mistake was made on her part.

Comm. Epison stated that on trash ordinance violations, etc., his department always tell people that "we received a complaint."

Mr. Cox approached the podium and stated yes, he is the one everyone is discussing this evening and he is sorry this has taken up so much time. He then stated he feels it would not hurt to take names, they could be a resource on how many people actually did call in.

Mayor Knowles added that Mrs. Peerman is supposed to fill out a log book on all complaints.

Mrs. Peerman agreed that was true and added it gets difficult to keep up with.

Mr. Cox stated he has been working with Mayor Knowles and Comm. Epison and he does call in when there are problems, he added he also talked with the complainant. He then stated

he can not please her, he does have a job to go to everyday and he can not work on the mess every minute of every day. He added he has taken up a lot of the Council's time and he does not want things to get bad, he will continue to do what he can and report in.

Mayor Knowles added Mr. Cox has been so nice and very polite during all of this. She suggested he just keep doing what he is doing.

Mayor Knowles stated if there were no further business, she entertains a motion to adjourn.

Councilman Cooper moved the meeting be adjourned. Seconded by Councilman Curtis.

Mayor Knowles stated all those in favor of the motion should signify in the affirmative; and following the vote, she reported the motion carried unanimously and adjourned the meeting.

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Rosemary L. Knowles

Mayor

ATTEST:

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Cristi L. Wolfe

Clerk-Treasurer